

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAVIER OLIVER SANCHEZ,
Plaintiff,
v.
SEBASTIAN GARCIA,
Defendant.

No. 2:23-cv-1192 KJM DB

ORDER

On December 19, 2023, plaintiff filed a motion for default judgment. (ECF No. 14.) The motion is noticed for hearing before the undersigned on February 2, 2024, pursuant to Local Rule 302(c)(19). (ECF No. 16.) On December 20, 2023, plaintiff filed a request to appear at the hearing via Zoom. (ECF No. 15.) Granting or denying default judgment is within the court's sound discretion. Draper v. Coombs, 792 F.2d 915, 924-25 (9th Cir. 1986); Aldabe v. Aldabe, 616 F.2d 1089, 1092 (9th Cir. 1980). The court is free to consider a variety of factors in exercising its discretion. Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Among the factors that may be considered by the court are

(1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the action; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Eitel, 782 F.2d at 1471-72 (citing 6 Moore's Federal Practice ¶ 55-05[2], at 55-24 to 55-26).

Plaintiff's motion, however, does not discuss any of the factors noted above. Instead, it simply provides the procedural history of this action, asks for default judgment and for an award of \$75,920.72. (ECF No. 14 at 4.) Plaintiff will, therefore, be ordered to file supplemental briefing and the hearing of plaintiff's motion will be continued.

Accordingly, IT IS HEREBY ORDERED that:

1. The February 2, 2024 hearing of plaintiff's motion for default judgment (ECF No. 14) is continued to **April 12, 2024**;

2. On or before **March 15, 2024**, plaintiff shall file a supplemental brief addressing the Eitel factors noted above; and

3. Plaintiff's December 20, 2023 motion to appear via Zoom (ECF No. 15) is denied without prejudice to renewal as having been rendered moot.

DATED: January 29, 2024

/s/ DEBORAH BARNES

UNITED STATES MAGISTRATE JUDGE

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